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A PRACTICE OF INTELLECTUAL PROPERTY LAW

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Legislative Program Review and Investigations Committee
LOB - State Capitol
Hartford, CT

Re: Hearing on Commission on Human Rights and Opportunities: Discrimination
Complaint Processing - Sept. 21, 2016

Dear PRI Committee:

I am an attorney and a rental property owner in Connecticut. While there are incidents of discrimination in the rental housing area, in my experience most landlords and rental property managers try their best not to discriminate against potential tenants. There is a lack of experience and education in the industry, especially among small mom and pop type operations which only own a few rental units which might lead to inadvertent instances of discrimination. It is extremely difficult for the small business owners to keep apprised of all the disjointed and disparate laws which encompass housing discrimination (e.g. service, comfort and emotional support animals is a particularly murky area). Training and education is needed more than brute and unrelenting enforcement in these cases.

Purposeful and directed housing discrimination against particular groups is extremely rare, but does on occasion occur. To combat these incidents of discrimination, there is a need for a complaint and hearing process before the Commission on Human Rights and Opportunities (CHRO) - both on a local level and certainly on a statewide level.

The problem is that the state CHRO has turned into a fearsome weapon and has tended to remove the "fairness" in fair housing complaints. Firstly, complaints can be made without the Complainants swearing to the validity of the accusations. All complaints should be notarized as being true and accurate. This ensures that any action taken is started with someone stating under oath that what happened actually happened. This gives the proceedings a firm responsible basis on which to commence.

I have heard that the CHRO has accepted secret taped conversations as "evidence" in some past cases. This is not allowed in Connecticut unless all parties are aware and consent to the taping (unless there is a court order given to law enforcement). No taped conversations should be allowed unless both parties consent.

Currently the standard of proof in Fair Housing discrimination hearings is "reasonable

cause". The standard should be raised to at least "preponderance of the evidence" so that it can be found that discrimination was more likely to have occurred than not.

Damages should be limited to actual damages. Punitive damages which bear no relation to the injury suffered should not be part of the process. Training and education should be offered to the defendant landlords, especially where there has been no actual loss to the complainants. This would be especially true in the case of "testers" who call landlords to try to entrap them into making discriminatory statements. Since the "testers" did not suffer any loss of housing, there should be no damages awarded. If discriminatory practices were uncovered, then the landlords should be informed on the spot that they are violating the law and be given a concise and understandable guideline of the fair housing laws and be allowed to correct their practices so that real injury does not happen to actual housing seekers.

I urge the Committee to undertake a thorough examination of the CHRO complaint and hearing process so that a balance can be restored making the process fair and equitable for all parties. The goals should be a fair coverage of actual damages suffered and more educated rental property owners with a consistent drop in incidences of discrimination in the rental housing market in Connecticut.

Mark H. Kulos,
Attorney and Rental Property Owner